

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

NO POSTEST FLOVED
Release 6-1-1991

Person to Contact:

Date 4-26-91

Telephone Number:

Surname [REDACTED]

Refer Reply to:

Date:

FEB 28 1991

E.I.N.: [REDACTED]

K.D.O.: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code. Based on the information submitted, we have concluded that you do not qualify for exemption under that section.

The information in the file reveals that you were incorporated on [REDACTED]. Your purpose as stated in your articles of incorporation is as follows:

To promote and conduct church services and to adopt a constitution and bylaws for the purpose of preserving, securing and furthering the belief in the Holy Bible, and to preserve and secure the principles of the faith of the membership of the church and to govern it in an orderly manner. To preserve and secure the liberties of each individual church member and the freedom of action of the local body of the church in its relation to other churches; to ordain ministers to carry out all the purposes herein and for the purpose of teaching the gospel, religious training, and to conduct weddings and solemnize marriages.

On your application you stated that "The purpose of this organization is to furnish guidance and to further the work of Jesus Christ to bring unity and strength to the brothers and sisters and to establish a work that is firmly rooted and grounded on the word of God. We will license ministers, evangelists, deacons, teachers and other church workers in our member churches upon duly recognized recommendation. Each member church shall be responsible for maintaining their own church, financially and administratively, so long as they abide by the word of God, preaching and teaching according to Acts 2:38.

████████████████████

"Our goals include serving the community that each church is located in by participating in such programs as Missouri's "Adopt A Highway", to support our youth in their volunteer School Prayer Group, visiting and bringing God's word through songs and music to community nursing homes and any other programs for the youth, needy and elderly in our community.

"We are non-denomination and non-discriminatory."

You are controlled by a five member Board of Directors that may be elected or appointed by the president of the Board of Directors.

You state that you are not a church holding regularly scheduled services, but are merely an overseeing body to any church desiring to join you for leadership and administrative guidance. You have no membership other than your Board of Directors, but currently have two churches affiliated with you.

You have indicated that your sources of income would be from donations, fundraisers and fees for licensing ministers, Christian workers and chartering churches.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for religious or charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(e)(1) of the Income Tax Regulations provides that, in general, an organization may meet the requirements of section 501(c)(3) of the Code although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business, as defined in section 513. In determining the existence or nonexistence of such primary purpose, all the circumstances must be considered, including the size and extent of the trade or business and the size and extent of the activities which are in furtherance of one or more exempt purposes.

Section 513 of the Code defines "unrelated trade or business" as any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational or other purpose or function constituting the basis for its

exemption under section 501, with certain exceptions not here relevant.

Section 1.513-1(b) provides in relevant part that where an activity carried on for the production of income constitutes an unrelated trade or business, no part of such trade or business shall be excluded from such classification merely because it does not result in profit.

In B.S.W. Group, Inc. v. Comm., 70 T.C. 352 (1978), an organization's sole activity was to offer consulting services for a fee to non-profit, limited resource organizations engaged in various rural-related activities. The court held that the Group's primary purpose was commercial, and therefore, it did not qualify for exemption.

The court reasoned that under the operational test, the purpose towards which an organization's activities are directed and not the nature of the activities themselves, is ultimately dispositive of the organization's right to be classified as a section 501(c)(3) organization exempt from tax under section 501(a)... Petitioner is engaged in one and only one activity, but it is possible for such an activity to be carried on for more than one purpose... The fact that petitioner's activity may constitute a trade or business does not, of itself, disqualify it from classification under section 501(c)(3), provided the activity furthers or accomplishes an exempt purpose... Rather, the critical inquiry is whether petitioner's primary purpose for engaging in its sole activity is an exempt purpose, or whether its primary purpose is the nonexempt one of operating a commercial business producing net profits for petitioners...

In construing the phrase "operated exclusively for one or more exempt purpose," it has been held that the presence of a single nonexempt purpose, if substantial, will defeat exemption regardless of the number or importance of the exempt purposes of the organization. See Better Business Bureau v. United States, 326 U.S. 279 (1945).

In Universal Life Church, Inc. v. U.S., 372 F. Supp. 770 (1974), the court held that a religious organization's practice of ordaining ministers, granting church charters and issuing honorary Doctor of Divinity certificates were not substantial activities which did not further any religious purposes such as to disqualify it from acquiring tax exempt status.

Cramer v. Commonwealth, 214 Va. 561, 202 S.E. 2d 911, Cert. denied 419 U.S. 875, 95 S.Ct. 137, 42 L.Ed. 2d 114 (1974), held that persons who became ordained ministers simply by asking to be ordained and who belonged to a church which had over 1,000,000 ordained ministers for only 9,000 churches had not been responsibly selected for ordination and thus were not entitled to perform marriages.

You have stated that you are not a church or an association or convention of churches and have no membership beyond your Board of Directors. You have no distinct religious history, no formal code and you do not provide formal religious training. You do not normally hold services and you do not conduct sacerdotal functions. You therefore fail to meet the minimum standards for qualification as a church as discussed in American Guidance Foundation v. U.S., 490 F. Supp 304 (1980).

While some of your activities may be religious in nature, the sale of licenses and charters to ministers, Christian workers and churches is an activity carried on for the production of income and is not related to any established exempt purpose and therefore is an unrelated trade or business as described in section 513 of the Code.

Unlike the organization discussed in Universal Life Church, which was found to be a religious organization, you have not established that you are a religious organization. Even if you were found to be a religious organization, exemption would still be precluded because of the substantial nature of your nonexempt activities. See Better Business Bureau, supra.

Based on the above, we have concluded that you do not qualify for exemption under section 501(c)(3) of the Code because you have not established that you are a church as described in American Guidance Foundation, supra., or that you are operated exclusively for any other charitable or religious purpose.

Contributions to you are not deductible under section 170 of the Code. You are required to file federal income tax returns. You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your principal officers. You also have a right to a conference in this office after your statement is submitted. If you want a conference, you must request it when you file your

[REDACTED]

protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days of the date of this letter, this ruling will become final and copies will be furnished to the key District Director, Chicago, IL, which is your key district for exempt organization matters. Thereafter, any questions about your federal income tax status, or the filing of returns should be addressed to that office. Also, the appropriate state official(s) will be notified of this action in accordance with section 6104(c) of the Code.

Sincerely yours,

(signed) [REDACTED]

[REDACTED]
Chief Exempt Organizations
Rulings Branch 1

cc: [REDACTED]

cc: [REDACTED]

cc: state officials of [REDACTED]